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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/651,073 | 08/27/2003 | James F. Boyd | YC1.P11 | 7261 |
| 21792 | 7590 | 11/28/2005 | EXAMINER | |
| STRATTON BALLEW 213 S 12TH AVE YAKIMA, WA 98902 | | | CHAWLA, JYOTI | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1761 | |
| DATE MAILED: 11/28/2005 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/651,073

Applicant(s)

BOYD, JAMES F.

Examiner

Jyoti Chawla

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admission of prior art as evidenced in pages 1 and 2 of the specification, and further in view of Maye et al (US Patent Number 5583262), Todd Jr. (US Patent Number 5073396), Chen (Publication Number US2003/0044505 A1), Myers et al (US Patent Number 5622719), Mayer (US Patent Number 3660107), Wilen (US Patent Number 2297599), Greenblatt (US Patent Number 2105690), Burkhardt et al (US Patent Number 4946691), and further in view of Michaelson (US Patent Number 4414198).

3. For the purpose of this rejection it is noted that since the applicant's disclosure on pages 1-2 falls into "Background of Invention" and employs the terms "traditionally" and "usually" (see page 1, paragraph 3 and page 2, lines 3-5), and since applicant has defined the term "hop adjuncts" to include hops per se and hop derived materials, then the admission of prior art is construed to be that it was conventional to provide a compressed pellet of a hop adjunct.

4. In regards to claim 1, applicant's admission of prior art discloses that it is conventional to provide a hop adjunct, which can be in a pellet form (claim 3).

Art Unit: 1761

Burkhardt et al., disclose the use of hop pellets as a convenient way of utilizing hops in brewing (Column 1, lines 10-15), Maye et al further provide evidence to the conventionality of the art to employ either the whole hop or various constituents thereof, either separately or combined, in solid form such as powder, in various phases of the brewing process.

5. Claim 1 differs from the applicant's admission of the prior art in that an effervescent material is combined with hop adjunct. Said effervescent material includes a carbonate salt of alkaline metal. As disclosed the effervescent material is added to hop adjunct to improve the efficiency and activity of said hop adjunct by providing better distribution of the said hop adjunct in the process, i.e., the effervescent material makes for better interaction between the hop adjunct and the liquid it is placed into herein. As evidenced by Chen, Myers et al, Wilen, Michaelson and Greenblatt, it is notoriously well known to enhance the dispersion of the ingredients of a compressed tablet, by adding to the said tablet, an effervescent material including the salt of an alkaline metal (and an accompanying acid). The resulting generation of Carbon dioxide helps in dispersion of ingredients of the tablet in the liquid it is added to. It is noted that this is applicant's objective for associating the effervescent material with the hop adjuncts. To modify applicant's admission of prior art and associate effervescent material with hop adjuncts for its art recognized and applicant's intended function, i.e., more efficient dispersal of hop adjuncts, would therefore have been obvious.

Art Unit: 1761

6. In regards to claim 2, carbon dioxide extraction of hop appears to be well known in the art, as disclosed in the specification (page 2, paragraph 2). In addition, Todd Jr. further provides evidence to the conventionality of the art to employ carbon dioxide to separate and fraction hop components (column 3, lines 18-23).

7. In regards to claim 4, since applicant's disclosure defines "hop adjuncts" and Maye further supports that it is conventional to use hop adjuncts, including any and all of the components, it would have been obvious to use either the whole hops or any component thereof, for the purpose of the present invention. Todd Jr. further supports that it is conventional to use hop adjuncts or fractions, including any and all of the components.

8. In regards to claim 5, it is not clear if "is added to a wort" is a functional statement of intended use or a positive recitation of hop product being present in the wort. It is also not clear if the phrase "formulation" refers to the effervescent hop product. In any case, to expedite prosecution, the claim would be construed as hop product (claim 1) in wort. Applicant's admission of the prior art discloses putting hop adjuncts in the wort as conventional step, therefore, to put hop extract with effervescent material in the wort, would have been obvious.

9. In regards to claim 6, it only adds to claim 1, the product can be used to include beer. Applicant's admission of the prior art recites that it is traditional to use hop products in the process to making beer, as further supported by Maye et al, therefore, the modified hop adjuncts of the combination of hop components

Art Unit: 1761

and effervescent material, would be capable of being used in beer manufacturing process.

10. Claims 7,8,9 and 10 are rejected for the same reasons given in regards to claim 4, since it is noted above that it is conventional to use hop adjuncts, including any and all of the components.

11. Claim 11 is rejected for reasons provided above in regards to claims 5 and 6. Applicant's admission of the prior art discloses putting hop adjuncts in the wort as conventional step for making beer, therefore, to put hop extract with effervescent material in the wort, would have been obvious.

12. Claims 12, 14, 15, 16, 17 and 18 are rejected for the same reasons given in regards to claim 4, since it is noted above that it is conventional to use hop adjuncts, including any and all of the components.

13. Claims 13 and 21 are rejected for the same reasons given in regards to claim 3, i.e., applicant's admission of prior art discloses that it is conventional to provide a hop adjunct, which can be in a pellet form. Maye et al further provide evidence that hop constituents, can be separated in solid form such as powder.

14. Claim 19 and 23 are rejected for the same reasons given in regards to claim 11.

15. Claims 20, 22, 24, 25, 26 and 27 are rejected for the same reasons given in regards to claim 4, since it is noted above that it is conventional to use hop adjuncts, including any and all of the components.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure Halliberg et al., (US 4828867), Grant (US 4154865),

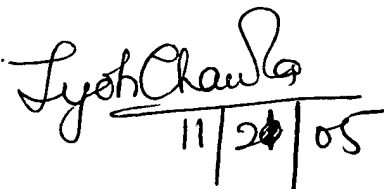
Art Unit: 1761

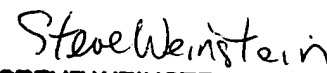
Demper (US 3441416), Smith et al., (US2001/0031305 A1), Laws (US 4780330),
Von Horst et al., (US 4490405), Burkhardt et al (GB 2213163 A), and
ANH_ALLGEMEINE NURNBERGER (DE 2214062 A).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jyoti Chawla whose telephone number is (571) 272-8212. The examiner can normally be reached on 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


11/21/05


STEVE WEINSTEIN
PRIMARY EXAMINER 1761
11/21/05